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February 10, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

In re Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, **CC Docket No. 96-128**

Dear Ms. Salas:

On February 10, 1998, BB Nugent of US West, Marie Breslin of Bell Atlantic, Aaron Panner of Kellogg, Huber and I met with Bob Spangler, Rose Crellin, Greg Lipscomb, Craig Stroup and Jennifer Myers of the FCC on behalf of the RBOC/GTE/SNET Payphone Coalition to discuss issues in the above-captioned proceeding. The enclosed document was prepared by the Coalition and was used for discussion purposes.

One original and one copy of this letter are being submitted to you in compliance with 47 C.F.R. § 1.1206(a)(2) to be included in the record of this proceeding. If you have any questions concerning this matter, please contact me at (202) 326-7902.

Sincerely,

Michael K. Kellogg

Michael K. Kellogg

Enclosure

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List ABCDE

The IXCs Have Lined Their Pockets

- The IXCs have raised their rates repeatedly to pay for per-call compensation.
- AT&T, for example, raised its 800 rates at least three times:
  - On February 27, 1997, AT&T raised toll-free rates by 3 percent and imposed a $.15 per call charge for business credit card calls.
  - On May 1, it raised its interstate toll-free rates by 7 percent and business international and interstate outbound services by 2 percent.
  - On June 1, it added another $.35 per-call charge for calling card calls, reduced to $.28 in October.
  - Starting November 1, AT&T imposed a $.28 per-call surcharge for toll-free calls from payphones.
- Sprint and MCI have raised their rates in similar fashion.
- Virtually none of this has been passed on to PSPs.

The Commission Should Issue An Interim Compensation Order With All Possible Speed

- LECs eliminated all intrastate and interstate payphone subsidies by April 15, 1997.
- Since that time, LEC PSPs have received virtually no per-call compensation.
- At $.284 per call, and an average of 131 access code and subscriber 800 calls per month per payphone, the IXCs owe the LEC PSPs over $500 million plus interest.
- LEC PSPs must also be compensated for 0+ and 0- calls made from their payphones, as well as for inmate calls, as the D.C. Circuit held.

The Interim Compensation and Reconsideration Orders Should Include Strong Enforcement Language

- The Orders should make crystal clear that the IXCs must pay their obligations immediately.

- LECs have fully complied with all requirements for reclassification of payphone operations, including elimination of interstate and intrastate subsidies, and have so certified to the IXCs.

- No "state certification" or other evidence of compliance with the requirements of the Payphone Orders is required for LEC PSPs to be entitled to per-call compensation, despite the claims of some IXCs.

  - "[T]he Commission did not establish a requirement that LEC PSPs obtain a formal certification of compliance from the Commission or the states to receive per-call compensation." Second Report and Order, ¶1 n.9.

  - IXC claims of non-compliance may be pursued before the Commission; they do not provide an excuse to avoid compensation obligations.

The Reconsideration Order Should Be Issued Well in Advance Of Oral Argument in the D.C. Circuit

- The Coalition joined the Commission in urging the Court to hold these appeals in abeyance pending reconsideration.
- Several of the reconsideration issues are presented in the appeal.
- Many of these issues may be rendered moot by the Order on Reconsideration.
- In all events, the Court is more likely to defer consideration of such issues if the Order on Reconsideration has been released.

The Default Rate Should Be Increased on Reconsideration

- Inverse elasticity pricing is economically sound and more accurate than avoided cost pricing and shows that the default rate should be greater than $.35.

- The Commission's avoided cost calculation included several errors:

  - The coin mechanism is not an avoided cost; these costs were severely inflated in any event.

  - The Commission overstated PSP line savings.

  - Bad debt and collection costs are real and should not have been ignored.

  - ANI ii costs must be allocated to coinless calls only.